

REMARKS

This responds to the Office Action dated on October 10, 2006, and the references cited therewith.

Claims 1, 11, 15-18, 21-23, 27, and 30 are amended, claims 7-8 were previously canceled, without prejudice to the Applicants; as a result, claims 1-6 and 9-32 are presently pending in this application.

§101 Rejection of the Claims

Claims 15-17 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicants have amended the claims in the manner suggested by the Examiner. Consequently, Applicants believe that this rejection is no longer appropriate and should be withdrawn.

§112 Rejection of the Claims

Claims 1-6, 9-21 and 23-32 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independent claims were amended in a manner suggested by the Examiner, such that the differences are no longer optional but are in fact claimed. This was the suggestion made by the Examiner to correct the perceived defect. Consequently, Applicants believe that these rejections are now no longer appropriate and should be withdrawn.

§102 Rejection of the Claims

Claims 1, 9-11, 13-15, 17, 18, 21, 23, 25-27 and 29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Passera (U.S. Patent No. 6,415,286). It is of course fundamental that in order to sustain an anticipation rejection that each and every step or element in the rejected claims must be taught or suggested in the cited reference.

More specifically, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently in a single reference. *Verdegaal Bros.v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 1051, 1053 (Fed. Cir. 1987). Additionally, “[t]he

identical invention must be shown in as complete detail as contained in the . . . claim.”

Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 1913, 1920 (Fed. Cir. 1989).

The elements must be arranged as required by the claims.

Applicants would like to respectfully reiterate that anticipation is only proper if “[t]he identical invention must be shown in as complete detail as contained in the . . . claim.”

Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 1913, 1920 (Fed. Cir. 1989).

Passera is directed to techniques for efficiently training neural networks. This is done by partitioning data amongst nodes for the training process. The Examiner has recited that the “master” in Passera is equivalent to Applicants functionality defined generally as a wrapper. Applicants respectfully disagree.

In Passera, the “master” or controlling processor does not intercept anything directed to a particular slave. The processing is directed to the master and not to a slave. The master than directly decides which slaves are to perform work. It is noted that in Passera the slaves are tightly coupled with the processing of the master and vice versa. That is, there is a variety of inter process communication including sharing of an entire network tree topology, and the like. There is no ability at all in this arrangement and architecture for creating a parallel processing environment from a legacy program or environment, without entailing a substantial amount of integration and rewriting to achieve the defined relationships and inter process communications, which would necessarily have to occur between the master and each of its slaves in Passera.

The Examiner’s attention is directed to column 6 lines is states clearly that the “Master . . . controls the operation of other, slave processors.” See also column 6 lines 39-59, where the master creates a tree for the terminal or slave nodes and for the proposition that the master and slaves (terminals) perform a variety of inter process communication.

Thus, the identical invention is not shown at all because there is no “intercepting” going on in the Passera. In Passera, the processing is directed to the master and the master cooperates with the slaves to divide and distribute work. This is not what is claimed where a “call” is “made to” a particular process and that “call” is “intercepted” and then transformed into a “call” that can be parallel processed. This arrangement of intercepting a call made to a particular process and not the master is not shown, taught or suggested in the Passera reference. And, as explained above it is not a non trivial matter, since without such a teaching Passera could not be easily

integrated and used in existing or legacy environments or with legacy programs. The benefits of Passera are largely lost if programs have to be re-written to achieve its stated benefits. The positively recited limitations of “intercepted” and “call that is made to” restrict Applicants’ invention to what has been argued above and which is not taught in Passera.

Thus, the rejections with respect to Passera are inappropriate and should be withdrawn, especially since the rejections are anticipation rejections and clearly the identical invention with the same arrangement is not shown in Passera.

§103 Rejection of the Claims

Claims 2, 3, 12, 19, 20, 22, 24, 28 and 30-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Passera (U.S. Patent No. 6,415,286) in view of Rehg (U.S. Patent No. 6,480,876). It is of course fundamental that in order to sustain an obviousness rejection that each and every step or element must be taught or suggested in the proposed combination of references. Moreover, there must be some demonstrable evidence that one of ordinary skill in the art would have been motivated to make the proposed combination recited by the Examiner.

Applicants would further like to point out that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art recited also suggests in some manner the desirability of the proposed combination. *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990). Applicants would also like to note that “rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *See Lee*, 277 F.3d 1338, 1343-46 (Fed. Cir. 2002); *Rouffet*, 149 F.3d 1350, 1355-59 (Fed. Cir. 1998). This requirement is rooted in the Administrative Procedure Act, which ensures due process and non-arbitrary decision making, as it is in 35 U.S.C. § 103. *See id.*, at 1344-45.” *In re Kahn*, No. 04-1616 (Fed. Cir. March 22, 2006).

It has also been held that when the primary teachings of one reference is negated or taught against or taught away from another reference in the proposed combination, then it is common sense that one of ordinary skill in the art would not have been motivated to combine the references in the manner being proposed, because in so doing the very teachings that are asserted to be complimentary are by definition not complimentary to one another. Thus, there is no

motivation by one of ordinary skill in the art to combine the references. It is also the case that the intended functions of the references being combined cannot be destroyed when combined. *See In re Grasselli*, 713 F.2d 731, 743; 218 USPQ 769, 779 (Fed. Cir. 1983).

Claims 22 and 30 are the independent claims of the rejected set for this particular rejection. The Examiner maintains that the teaching of recombining output data is not shown in Passera but is in Rehg for claim 22 and asserts that the teaching of selecting programs based on load is not shown in Passera but is in Rehg.

Firstly, the teaching of “intercepting” a “call” or “calls” is not shown in Passera or Rehg. So, before Applicants even address the remaining issues, Applicants would like to point out that based on the discussion presented above with respect to the anticipation rejections, claims 22 and 30 cannot be rejected on the combination because the combination still lacks the teachings detailed in the discussion of anticipation above.

Secondly, Passera takes an entirely different approach than does Rehg to achieving parallel processing. Passera seeks to create a coupled and integrated and cooperative environment as discussed above with the designated relationships between slaves and their master. This architecture is core to the teachings of Passera and without it Passera would be lost. Thus, the combination is improper and no motivation exists to combine the two because Applicants’ submit that Rehg uses a non complimentary approach where Rehg specifically separates task parallelism from data parallelism and relies on a pre-existing task parallel representation with a new data parallelism. See Rehg column 5 line 65 and continuing to column 7 line 1. Passera has to include both data and task parallelization in its architecture the two are inseparable from one another. Conversely, Rehg has to have the two separated distinctly to achieve its proposed teachings of independent task and data parallelism. So, combining the two is not permissible because one of ordinary skill in the art would not have been motivated to make a combination when the teachings of the individual references are lost in the resulting combination.

Accordingly, the rejections of independent claims 22 and 30 should be withdrawn. Furthermore, the rejections of the dependent claims dependent from independent claims discussed above with respect to the anticipation rejection, thus these dependent claims are also

allowable in view of the comments supplied above with respect to anticipation and with respect to the present obviousness rejections.

Claims 4-6 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Passera (U.S. Patent No. 6,415,286). These rejected claims are dependent from amended independent claims; thus, for the amendments and remarks presented above with respect to the independent claims from which claims 4-6 and 16 dependent, the rejections should be withdrawn and the claims allowed. Applicants respectfully request an indication of the same.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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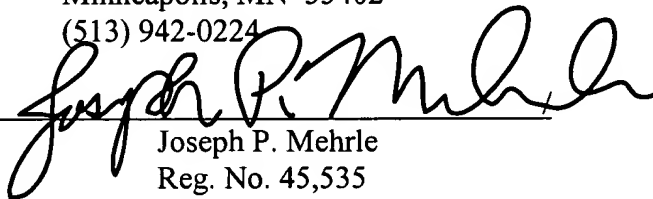
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10 day of January 2007.

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